34A-2-111. Managed health care programs -- Other safety programs.

(1) As used in this section:

(a) (i) "Health care provider" means a person who furnishes treatment or care to persons who have suffered bodily injury.

(ii) "Health care provider" includes:

(A) a hospital;

(B) a clinic;

(C) an emergency care center;

(D) a physician;

(E) a nurse;

(F) a nurse practitioner;

(G) a physician's assistant;

(H) a paramedic; or

(I) an emergency medical technician.

(b) "Physician" means any health care provider licensed under:

(i) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) Title 58, Chapter 24b, Physical Therapy Practice Act;

(iii) Title 58, Chapter 67, Utah Medical Practice Act;

(iv) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(v) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;

(vi) Title 58, Chapter 70a, Physician Assistant Act;

(vii) Title 58, Chapter 71, Naturopathic Physician Practice Act;

(viii) Title 58, Chapter 72, Acupuncture Licensing Act;

(ix) Title 58, Chapter 73, Chiropractic Physician Practice Act; and

(x) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse.

(c) "Preferred health care facility" means a facility:

(i) that is a health care facility as defined in Section 26-21-2; and

(ii) designated under a managed health care program.

(d) "Preferred provider physician" means a physician designated under a managed health care program.

(e) "Self-insured employer" is as defined in Section 34A-2-201.5.

(2) (a) A self-insured employer and insurance carrier may adopt a managed health care program to provide employees the benefits of this chapter or Chapter 3, Utah Occupational Disease Act, beginning January 1, 1993. The plan shall comply with this Subsection (2).

(b) (i) A preferred provider program may be developed if the preferred provider program allows a selection by the employee of more than one physician in the health care specialty required for treating the specific problem of an industrial patient.

(ii) (A) Subject to the requirements of this section, if a preferred provider program is developed by an insurance carrier or self-insured employer, an employee is required to use:

(I) preferred provider physicians; and

(II) preferred health care facilities.

(B) If a preferred provider program is not developed, an employee may have free choice of health care providers.

(iii) The failure to do the following may, if the employee has been notified of the preferred provider program, result in the employee being obligated for any charges in excess of the preferred provider allowances:

(A) use a preferred health care facility; or

(B) initially receive treatment from a preferred provider physician.

(iv) Notwithstanding the requirements of Subsections (2)(b)(i) through (iii), a self-insured employer or other employer may:

(A) (I) (Aa) have its own health care facility on or near its worksite or premises; and

(Bb) continue to contract with other health care providers; or

(II) operate a health care facility; and

(B) require employees to first seek treatment at the provided health care or contracted facility.

(v) An employee subject to a preferred provider program or employed by an employer having its own health care facility may procure the services of any qualified health care provider:

(A) for emergency treatment, if a physician employed in the preferred provider program or at the health care facility is not available for any reason;

(B) for conditions the employee in good faith believes are nonindustrial; or

(C) when an employee living in a rural area would be unduly burdened by traveling to:

(I) a preferred provider physician; or

(II) a preferred health care facility.

(c) (i) (A) An employer, insurance carrier, or self-insured employer may enter into contracts with the following for the purposes listed in Subsection (2)(c)(i)(B):

(I) health care providers;

(II) medical review organizations; or

(III) vendors of medical goods, services, and supplies including medicines.

(B) A contract described in Subsection (1)(c)(i)(A) may be made for the following purposes:

(I) insurance carriers or self-insured employers may form groups in contracting for managed health care services with health care providers;

(II) peer review;

(III) methods of utilization review;

(IV) use of case management;

(V) bill audit;

(VI) discounted purchasing; and

(VII) the establishment of a reasonable health care treatment protocol program including the implementation of medical treatment and quality care guidelines that are:

(Aa) scientifically based;

(Bb) peer reviewed; and

(Cc) consistent with standards for health care treatment protocol programs that the commission shall establish by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including the authority of the commission to approve a health care treatment protocol program before it is used or disapprove a health care treatment protocol program that does not comply with this Subsection

(2)(c)(i)(B)(VII).

(ii) An insurance carrier may make any or all of the factors in Subsection (2)(c)(i) a condition of insuring an entity in its insurance contract.

(3) (a) In addition to a managed health care program, an insurance carrier may require an employer to establish a work place safety program if the employer:

(i) has an experience modification factor of 1.00 or higher, as determined by the National Council on Compensation Insurance; or

(ii) is determined by the insurance carrier to have a three-year loss ratio of 100% or higher.

(b) A workplace safety program may include:

(i) a written workplace accident and injury reduction program that:

(A) promotes safe and healthful working conditions; and

(B) is based on clearly stated goals and objectives for meeting those goals; and

(ii) a documented review of the workplace accident and injury reduction program each calendar year delineating how procedures set forth in the program are met.

(c) A written workplace accident and injury reduction program permitted under Subsection (3)(b)(i) should describe:

(i) how managers, supervisors, and employees are responsible for implementing the program;

(ii) how continued participation of management will be established, measured, and maintained;

(iii) the methods used to identify, analyze, and control new or existing hazards, conditions, and operations;

(iv) how the program will be communicated to all employees so that the employees are informed of work-related hazards and controls;

(v) how workplace accidents will be investigated and corrective action implemented; and

(vi) how safe work practices and rules will be enforced.

(d) For the purposes of a workplace accident and injury reduction program of an eligible employer described in Subsection 34A-2-103(7)(f), the workplace accident and injury reduction program shall:

(i) include the provisions described in Subsections (3)(b) and (c), except that the employer shall conduct a documented review of the workplace accident and injury reduction program at least semiannually delineating how procedures set forth in the workplace accident and injury reduction program are met; and

(ii) require a written agreement between the employer and all contractors and subcontractors on a project that states that:

(A) the employer has the right to control the manner or method by which the work is executed;

(B) if a contractor, subcontractor, or any employee of a contractor or subcontractor violates the workplace accident and injury reduction program, the employer maintains the right to:

(I) terminate the contract with the contractor or subcontractor;

(II) remove the contractor or subcontractor from the work site; or

(III) require that the contractor or subcontractor not permit an employee that violates the workplace accident and injury reduction program to work on the project for

which the employer is procuring work; and

(C) the contractor or subcontractor shall provide safe and appropriate equipment subject to the right of the employer to:

(I) inspect on a regular basis the equipment of a contractor or subcontractor; and

(II) require that the contractor or subcontractor repair, replace, or remove equipment the employer determines not to be safe or appropriate.

(4) The premiums charged to any employer who fails or refuses to establish a workplace safety program pursuant to Subsection (3)(b)(i) or (ii) may be increased by 5% over any existing current rates and premium modifications charged that employer.

Amended by Chapter 72, 2013 General Session